

Recommendation	Does the System Impact a Federal Program ?	CFDA	Management Response	Notes	Corrective Action Plan	Person Responsible	Target Date	Actions	Request for extension
1) We recommend the Petroleum Tank Release Compensation Board work with Department of Environmental Quality to collaborate during corrective action plan development to verify eligibility, assure fund availability, and provide any other relevant input for consideration prior to final plan approval by the department.	No	n/a	Board Concur DEQ Concur	<p>The Board has and will continue to work collaboratively with the department to improve the work plan review process and to ensure that information regarding eligibility, fund availability, and other relevant information is readily available for consideration prior to final plan approval by the department. The Board will work collaboratively with department staff and stakeholders to evaluate strategies to improve the business process of requesting work and ensuring work that has been obligated is implemented and completed in a timely manner in an effort to get releases to closure in a cost effective and well timed manner.</p> <p>DEQ is willing and eager to work collaboratively with Board and staff to explore options and determine a streamlined process for the Board's eligibility determination and fund obligations to move sites to closure in a timely and efficient manner. DEQ recognizes addressing this recommendation will likely require a statute change and is willing to work collaboratively in this process.</p> <p>The department will continue to encourage coordination and planning meetings with stakeholders to improve communication, transparency, and facilitate timely work plan approvals and fund obligations.</p> <p>The department has and will continue to copy Board staff as recipients on letters addressed to responsible parties for work plan requests, approvals, modifications, and extensions; provide copies of work plans for investigation and remediation sent out for sanitarian comment; and inform Board staff that the work plan will be approved within 15 days of receipt of sanitarian comment (or expiration of the comment period) in accordance with the Administrative Rules of Montana (ARM).</p>	<p>The Board will meet regularly with department staff to strategize on business process and database changes that will improve availability of eligibility, funding, and other information. The Board will work with the department staff to develop guidance on cleanup requirements. The Board will collaborate on public outreach to stakeholders to identifying evidence, methods of collection, and documentation so the information needing consideration can be available before work plan approval.</p> <p>DEQ CAP 1. The department is willing to meet within the regulatory reform framework (November/ early December 2021) to discuss the process and statute/rule changes necessary to ensure collaboration during CAP development to verify eligibility, assure fund availability and provide other relevant input. 2. DEQ will reach out to other states in the region to discuss their process for eligibility determination/fund availability and collaboration efforts between the fund and state. DEQ will determine what approaches seem most likely to work in Montana and engage the board/stakeholders for feedback. 3. DEQ will work with the Board to assist with process improvements (implementing and paying for planning meetings) and develop tools (such as a reasonable cost guidance/outreach/pre-release eligibility) to improve communication, transparency, and facilitate timely fund obligations. 4. As process improvements/ regulatory reform is discussed, the department will seek input from stakeholders, and assist with moving regulatory reform and/or stakeholder education forward.</p>	Board, Terry Wadsworth, Amy Steinmetz, Terri Mavencamp, Marla Stremcha	December 2022 DEQ recommends 1. Nov. & Dec. 2021 2. Q1 2022 3. Q2 2022 4. Q3 2022	<p>DEQ CAP: 1. The department and the board staff (Garnet) regularly met during regulatory reform 9/24/2021; 10/20/2021; 11/3/2021; 11/9/2021; 11/18/2021; 12/8/2021; and 12/9/2022. Eligibility can be determined by the fund staff if the owner/operator submits the eligibility documentation, the fund can also assure fund availability at this time and provide relevant input, the definition of which remains questionable as DEQ and the fund disagree on the use of "reasonable and necessary". Moving forward, DEQ will move forward with CAPs and will bring to the board's attention where the fund staff are denying costs based on what DEQ believes are technical aspects. Statutorily, this will be addressed under Audit finding #2.</p> <p>2) The Department met with EPA and Wyoming (12/7/2021) to discuss Wyoming's Actions process for approvals and obligations of funds. Releases in WY are eligible for funding (also housed w/in WY DEQ) if the owner pays the annual fee of \$200. There are no other restrictions on the eligibility/funding.</p> <p>3) DEQ and the board executive director continue to meet with the process improvement team to address cost guidance documents for the board. In addition, the fund is working on getting the obligations into GIS.</p>	DEQ will continue to work with PTRCB on process improvements where there is agreement process improvements are needed. The fundamental disagreement between DEQ/PTRCB is that PTRCB does not have a technical oversight role, this disagreement makes process improvements difficult. DEQ proposes moving forward with audit finding #2 as a way to clarify roles and then continue to work with the board to verify eligibility, assure fund availability, and provide any other relevant input for cost consideration prior to final plan approval by the department.
2) We recommend the Montana legislature clarify statute by making amendments as needed to clarify the Petroleum Tank Release Compensation Board does not have a role in approving or basing reimbursement on the specific methods prescribed w/in approved corrective action plans that bring an eligible petroleum release to closure.		n/a	DEQ Concur	<p>DEQ agrees it would be helpful if there was clarity in statute and legislative intent for roles and responsibilities regarding what is needed for environmental protection and technical methodology or requirements of corrective action plans to bring releases to closure. The technical review and development of workplans should solely fall to environmental scientists, working with professional consultants, with specific knowledge, skills, and ability to oversee workplans and address site cleanup efforts. DEQ agrees to work with the Board and stakeholders to assist with amendments as needed to clarify statute to address recommendation #2, (75.11.309(3aii); 75.11.312; 75.11.318(4c)).</p>	<p>DEQ suggests, DEQ and the Board propose language to the Montana legislature during the 2023 session. DEQ and the Board should meet regularly to discuss and then conduct stakeholder outreach.</p> <p>1. The department is willing to meet with the Board to identify language that requires adjustment to clarify the Board's role in approving or basing reimbursement on the specific methods prescribed w/in approved corrective action plans that bring an eligible petroleum release to closure. 2. The department and Board identify language changes and engage stakeholders for input 3. The legislature moves forward with support from the department and Board on statute modifications.</p>	Mt legislature: Terry Wadsworth, Board, Amy Steinmetz, Terri Mavencamp, Marla Stremcha can suggest to legislature clarifying language	DEQ recommends Q1 - by Mar 2022 Q2 - by Jun 2022 Q3 - by Sep 2022	<p>DEQ: 1) The board staff and the department disagree on the role of the Board in approving or basing reimbursements on the specific methods prescribed in a Department approved corrective action plan. 2) The board has supplied DEQ with instances in the statute where they believe authority has been given to the board to perform technical reviews/oversight. DEQ has written a proposal for statute changes that would make clarifications as requested by the audit. DEQ will share these recommendations with the board and stakeholders by mid August. 3) DEQ would support legislation moving forward if the legislature were to carry this bill.</p>	Stakeholder input delayed to be initiated by mid-August.
3) We recommend the Petroleum Tank Release Compensation Board work with the Department of Environmental Quality to develop a process, seeking legislation if necessary, whereby remediation projects are competitively bid to bring releases to closure, in accordance with existing state procurement laws.	No DEQ - could affect fund structure and the reauthorization of the fund in MT	n/a	Board Conditionally Concur DEQ Concur	<p>The Board is willing and eager to work collaboratively with the DEQ to explore options and determine a streamlined process for how improvement might be made to bring releases to closure. It is important to recognize that the state of Montana is not in the business of assuming liability, but, rather, in the business of funding cleanup to eliminate liability by closing petroleum contaminated sites. The Board is concerned that under Montana contract law, the Board would be indirectly accepting liability, on behalf of the state, via a contract with a consultant for cleanup of a contaminated site. The Board does not have authority to accept liability for the state, only to reimburse an owner for cleanup of petroleum contamination from eligible tanks. The implementation of this recommendation could directly impact external stakeholders such as consultants and owners/operators. The degree of impact depends on how the recommendation is implemented. Stakeholder involvement will be an important part of the evaluation and change process. If the owner is required by law to obtain several competitive bids for standardized cleanup activity, such as occurs with automotive repair, the owner/operator would retain the ability to select their consultant and be engaged in the cleanup process. This approach keeps the state from indirectly accepting liability. The Board believes that implementing a competitive bid process will require changes to state cleanup process guidance and will work collaboratively with the stakeholders to update guidance, as necessary.</p> <p>DEQ is willing and eager to work collaboratively with Board and staff to explore options and determine a streamlined process for how improvement can be made to bring releases to closure. Implementation of this recommendation would directly impact external stakeholders (such as consultants and owners/operators). This will be an important effort towards evaluation and regulatory reform. For other cleanup efforts lead by DEQ using other funding sources (such as one-time appropriation of funds for non-eligible petroleum releases), DEQ does use a competitive process that complies with state procurement laws. Any process changes and impacts to the cost eligibility and determination to obligate funds would have to ensure that projects could be managed with resources available, and in a manner that ensures increased efficiency and long-term success.</p>	<p>The Board will examine and evaluate the competitive bidding processes other states use to accomplish release cleanup. The Board will work with DEQ staff to conduct public outreach to stakeholders to provide input on the processes. The Board will develop possible alternatives and identify the best alternative. The Board will submit the chosen alternative for a legal reviewed to identify possible statutory changes. If statutory changes are identified the Board will seek a legislative bill sponsor and draft any necessary legislation. Once legislation is passed the Board will make updates to their database cost management and work plan tracking system. The Board will work with DEQ staff to conduct public outreach to stakeholders to provide information regarding the changes to the work plan process. The has made a practice of implementing changes to business processes in January of each year. Therefore, implementation of the bidding process would be expected in January of 2024.</p> <p>DEQ suggests learning about other state's processes that use a competitively bid process to bring releases to closure. DEQ will meet with Wyoming and EPA in the first quarter 2022 to learn about their process. In Q2 2022, DEQ will determine what approaches seem most likely to work in Montana and engage the board/stakeholders for feedback. In Q3 DEQ will work with the board and staff to identify regulatory/guidance changes needed to implement the competitive process.</p>	Board, Terry Wadsworth, Amy Steinmetz, Terri Mavencamp, Marla Stremcha	January 2024 DEQ recommends Q1 - by Mar 2022 Q2 - by Jun 2022 Q3 - by Sep 2022	<p>DEQ CAP Q1) 1) DEQ met w/ Wyoming 12/7/2021 and March 2nd, 2022 to discuss their process for competitive bids. DEQ met with Colorado 2/14/2022 and with Utah 2/15/2022. 2) On May 12, 2022, DEQ met w/ PTRCB to discuss DEQ's summaries of Utah, Colorado and Wyoming's processes to bring releases to closure. PTRCB also presented the results of their state interviews. DEQ and PTRCB continue to meet biweekly to discuss progress on the audit CAP. As part of the stakeholder outreach, DEQ posted the state summaries and a Montana summary on our website as well as a summary comparison table. In addition, DEQ sent out a Survey Monkey Poll to solicit feedback on PTRCB and DEQ processes, especially pertaining to a potential bid system. 3) After attending PTRCB's stakeholder meeting and going through the replies to date on the DEQ Survey Monkey Poll, DEQ proposes continuing to discuss alternative options and approaches to the funding process in 2025. The majority of stakeholders expressed that they are not in favor of the bid process. Stakeholders also clearly and unanimously expressed that they want to maintain decision making authority on who they have working on their property and cleaning up releases.</p>	Request an extension to continue the bid process discussions and look for other possible solutions over the next biennium. Assessment is needed to determine the legality of a bid process, how a bid process might be implemented, and if it would lead to increased efficiency (i.e., cost and cleanup times). We will continue to evaluate alternative options used by other states and may use a national conference as a forum to discuss possible options. Determine in 2025, if there is support for a proposal/bid process.
4) We recommend the Petroleum Tank Release Compensation Board work with the Department of Environmental Quality to seek legislation that prepares the fund for the eventual closure of all historic underground storage tank release in Montana.	No DEQ - possible impacts to financial assurance requirements for underground storage tank leak prevention and reauthorization of the fund in MT	n/a	Board Partially Concur DEQ Concur	<p>The Board recognizes that the historic backlog of petroleum releases needs to be addressed. The Board looks forward to working with the DEQ on getting all petroleum releases assessed and in the process of being cleaned up, so that projects are managed along with available resources in a manner that ensures increased site closures and long-term success. The available funding in the Fund needs to be utilized for petroleum cleanup to the maximum extent possible. The amount of requested cleanup should be matched with available funding. Making use of all the available funding results in more timely site closures.</p> <p>DEQ agrees there will be a time in the future that historic backlog of petroleum releases will be addressed, however each year there are new releases that occur or are discovered. In accordance with the ARM 17.56.805, underground storage tank owners/operators must demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental release arising from the operation of petroleum underground storage tanks. Under ARM 17.56.815 an owner or operator may satisfy any part of its financial responsibility requirements by using the Montana petroleum tank release cleanup fund. Many owners and operators rely on the fund and the statement of tangible net worth to satisfy the financial assurance requirements. There are other types of financial responsibility mechanisms that exist that could be used. As the audit outlines, other states have different funding structures that are used and should be evaluated. DEQ will work with the Board and staff on this recommendation, as it leads this effort.</p>	<p>The Board will work with the department to develop an overarching strategic plan of timely assessing all currently active releases, to have a have a cleanup remedy identified and a schedule for both the cleanup remedy and any subsequent activity. The Board will collaborate with the department to develop a process whereby the owners are inspired to timely start and complete any approved corrective action.</p> <p>DEQ - Q1 - Talk to other states that have plans in place for eventual closure of the fund. Q2 - Determine what approaches seem most likely to work in Montana and engage the Board and stakeholders to determine the best path forward. Q3 - DEQ will work with the board and staff to identify legislation needed to prepare the fund for the eventual closure of all historic underground storage tank release in Montana.</p>	Board, Terry Wadsworth, Amy Steinmetz, Terri Mavencamp, Marla Stremcha	December 2022 DEQ recommends Q1 - by Mar 2022 Q2 - by Jun 2022 Q3 - by Sep 2022	<p>DEQ: Q1_ see state discussions under #3 Q2- DEQ and the board have discussed options for the fund once all historical releases are closed. An important aspect of this is an updated prediction of cost to bring all current releases to closure. PTC estimates eligible releases will take approximately 114 Million to bring to closure, 26 Million for sites where eligibility is yet undetermined (have not applied, suspended or withdrawn. This is only for current sites and does not include an estimation to clean up future releases. Considering approximately 7 Million in revenue per year is distributed to the fund, it would take 20 years of funding just to resolve the current releases (considering all undetermined sites are found eligible). Due to this calculation, DEQ suggests discussing approaches with the board and stakeholders, but focusing on resolving releases versus legislation to close the fund (Q3)</p>	DEQ proposes to continue to discuss approaches for eventual closure of the fund with stakeholders and the Board. DEQ recommends that the fund soundness be evaluated routinely as historic (legacy) releases are resolved. DEQ continues to use available financial (e.g. PTRCF, LUST/Trust, Brownfields, Special State Legislative Funding) and technical resources to investigate and cleanup legacy petroleum releases. All legacy releases are prioritized based on risk to human health, safety and the environment to efficiently direct finite financial and personnel resources. DEQ recognizes that corrective action at some legacy release are privately funded or do not qualify for other existing funding sources, influencing DEQ's ability to investigate, cleanup, and resolve these releases.